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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

CARL ALEXANDER WESCOTT.

Case No.: 3:17-CV-05837-WHO

Plaintiff,

v.

MONETTE STEPHENS and MICHELLE HARRIS,

**DEFENDANT MICHELLE HARRIS'S
NOTICE OF MOTION AND MOTION
TO STRIKE SUR-REPLY PURSUANT
TO FRCP 12(F) AND REQUESTED
ORDER THAT PLAINTIFF NOT FILE
ADDITIONAL PAPERS**

Defendants.

Date: April 4, 2018
Time: 2:00 p.m.
Courtroom: 2, 17th Floor
Judge: William H. Orrick

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

NOTICE IS HEREBY GIVEN that on the above date, time and location, Defendant Michelle Harris (“Harris”) will move for an order striking Plaintiff Carl Wescott’s (“Plaintiff”) “Motion for Leave to File Sur-Reply (to Reply to Response to Defendant’s Motion to Dismiss)” (hereinafter “Sur-Reply”) pursuant to Federal Rules of Civil Procedure (“FRCP”) 12(f). Harris’ motion to strike is based on the following grounds:

- (1) Plaintiff's motion for leave to file a sur-reply did not comply with Local Rule 7-3;
 - (2) Plaintiff did identify any new evidence submit by Harris in conjunction with her reply

1 brief, nor did Plaintiff demonstrate a new material issue was raised in Harris' reply brief in support of
2 Harris' Motion to Dismiss and Motion to Special Motion to Strike ("Harris' Motion");

3 (3) Plaintiff did not submit a request in writing prior to filing the sur-reply setting forth the
4 basis for a sur-reply; and

5 (4) Plaintiff improperly filed a sur-reply contemporaneously with the motion for leave to file
6 a sur-reply.

7 Harris also requests the Court order Plaintiff not submit any additional papers related to Harris'
8 Motion. The order is appropriate because Wescott has historically demonstrated his utter disregard for
9 the courts and their procedural boundaries. He was declared a vexatious litigant in California Superior
10 court due to his habit of manically filing frivolous motions. Wescott will undoubtedly adopt the same
11 tactics in this Court absent an order he not submit any additional papers.

12 This motion is further based on this Notice, the Memorandum of Points and Authorities, and on
13 such other oral and documentary evidence as may be presented at the hearing of this matter.

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15 Dated: March 20, 2018

16 MURPHY, PEARSON, BRADLEY & FEENEY

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18 By _____
19 Arthur J. Harris
Attorneys for Defendant
MICHELLE L. HARRIS

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CERTIFICATE OF SERVICE

I, Maria Diazgranados, declare:

I am a citizen of the United States, am over the age of eighteen years, and am not a party to or interested in the within entitled cause. My business address is 88 Kearny Street, 10th Floor, San Francisco, California 94108.

On March 20, 2018, I served the following document(s) on the parties in the within action:

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DEFENDANT
MICHELLE HARRIS' MOTION TO STRIKE PLAINTIFF'S SUR-REPLY PURSUANT TO
FRCP RULE 12(F).**

**DEFENDANT MICHELLE HARRIS'S NOTICE OF MOTION AND MOTION TO STRIKE
SUR-REPLY PURSUANT TO FRCP 12(F) AND REQUESTED ORDER THAT PLAINTIFF
NOT FILE ADDITIONAL PAPERS**

[PROPOSED] ORDER GRANTING DEFENDANT MICHELLE HARRIS'S MOTION TO STRIKE PLAINTIFF'S SUR-REPLY AND REQUESTED ORDER PROHIBITING PLAINTIFF FROM FILING ADDITIONAL PAPERS.

Carl Alexander Wescott
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Phone: (415) 335-5000

Attorney For Plaintiff in Propria Persona

I declare under penalty of perjury under the laws of the State of California that the foregoing is a true and correct statement and that this Certificate was executed on March 20, 2018.

By: Maria Diazgranados
Maria Diazgranados